Supreme Court, U.S.
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IN THE
SUPREME COURT of the UNITED STATES

Robert W. Grine II, Joanne D. Grine, Estate of Margaret M. Grine,
Petitioners

In Re: Grand Jury

On Petition for a Writ of Certiorari
To the Third Circuit Court of Appeals

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

I. Whether the Third Circuit Court of Appeals erred and violated the Petitioners' fundamental rights to due process of law when it affirmed the district court's order denying the Petitioners' disclosure motion, deliberately concealing from petitioners the identity of the judge who empanelled the grand jury in question and refusing to address the Petitioners' statutory right to be heard by the judge who supervised the grand jury?

II. Whether the Third Circuit Court of Appeals reversibly erred and infringed upon the Petitioners' fundamental rights to due process when it ratified the district court's failure to consider the specific factors delineated by the U.S. Supreme Court in balancing the public's interest in secrecy against the Petitioners' need for disclosure?

III. Whether the Third Circuit Court of Appeals reversibly erred and violated the Petitioners' rights to due process of law when it ratified the lower court's opinion concluding that Petitioners did not make the requisite showing that the ends of justice required disclosure?

IV. Whether the Third Circuit Court of Appeals reversibly erred and infringed upon the Petitioners' rights to due process when it affirmed the district court's order denying that Petitioners made the requisite showing of particularized need when they demonstrated their intent to use grand jury transcripts in a pending civil proceeding to test specific witnesses' credibility and to impeach witness testimony?

TABLE OF CONTENTS

Opinions Below 1

Jurisdiction 1

Constitutional and Statutory Provisions Involved 2

Statement of the Case 2

Reasons for Granting the Writ

I. The decision of the Third Circuit Court of Appeals interprets an important federal statute in a way that conflicts with this Court's precedents and with settled law on the Third Circuit. 7

II. The decision of the Court of Appeals should be reviewed because it erodes public confidence in the integrity of the judicial process. 11

Conclusion 15

TABLE OF AUTHORITIES

Cases **Page**

Dennis v. U.S., 86 S. Ct. 1840 (1966) 9

Douglas Oil v. Petrol Stops Northwest,
441 U.S. 221 (1979) 7-9, 11, 13

Mesarosh v. U.S., 77 S. Ct. 1 (1956) 14

United States v. McDowell,
888 F.2d 285 (3rd Cir. 1989) 10, 11

United States v. Mandurjano, 98 S. Ct. 1768 (1976) 13

United States v. Proctor & Gamble Co.,
78 S. Ct. 983 (1958) 8-9, 13

United States v. Rose, 215 F.2d 617 (3rd Cir. 1954) 8

United States v. Socony-Vacuum Oil Co.,
60 S. Ct. 811 (1940) 13

United States v. Wong, 97 S. Ct. 1823 (1977) 14

Constitutions

U.S. Const. Amend. V. 2

Statutes

28 U.S.C. §1254(1) 1
28 U.S.C. §1331 2

Rules of Procedure

Federal Rules of Criminal Procedure, Rule 6(e),
18 U.S.C. 2

IN THE
SUPREME COURT of the UNITED STATES

OCTOBER TERM, 1999

Robert W. Grine II, Joanne D. Grine, and the
Estate of Margaret M. Grine,
Petitioners

In Re: Grand Jury

Petition for a Writ of Certiorari
To the United States Court of Appeals
for the Third Circuit

Petitioners, Robert W. Grine II, Joanne D. Grine, and the Estate of Margaret M. Grine , respectfully pray that a writ for certiorari issue to review the order of the United States Court of Appeals for the Third Circuit entered in this proceeding on June 19, 2001.

OPINIONS BELOW

The memorandum opinion and order of the District Court for the Western District of Pennsylvania appears at Appendix A (App. A), and it is unreported.

The opinion and decision of the United States Court of Appeals affirming the district court's memorandum order of July 28, 2000, appears at Appendix B (App. B) and it is unreported.

The decision of the U.S. Court of Appeals denying the timely filed petition for rehearing appears at Appendix C (App. C.).

GROUNDS FOR JURISDICTION

The jurisdiction of this Court is invoked under 28 U.S.C. §1254(1). The order of the United States Court of Appeals summarily affirming the district court's orders of July 28, 2000, (denying the Petitioners' request for disclosure of grand jury transcripts) was entered on April 11, 2001. The Court of Appeals denied Petitioners' timely Petition for Rehearing on June 19, 2001.

One June 28, 2001 a certified copy of the judgement was issue in lieu of a formal mandate.

The questions presented did not arise until Petitioners received the Third Circuit Court of Appeals' opinion and judgement affirming the District Court's order of July 28, 2000, denying the Petitioners' request for disclosure of grand jury transcripts.

Petitioners thereupon sought rehearing and argued that the Court of Appeals had erred for numerous reasons and that its decision resulted in fundamental unfairness and a violation of the due process clause of the federal constitution.

The jurisdiction of the United States District Court for the Western District of Pennsylvania was invoked pursuant to 28 U.S.C. §1331 and Federal R. Crim. Proc. Rule 6(e)(3)(D), 18 U.S.C.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOKED

This case concerns the Fifth Amendment to the United States Constitution which provides in pertinent part, that "No person . . . shall be deprived of life, liberty, or property, without due process of law;..."

STATEMENT OF THE CASE

Petitioner-requesters are plaintiffs in Grine et al v. Coombs et al at Civil Action No. 942-E. The United States is a party to that action. In that civil action, in response to a discovery subpoena, the United States released to plaintiffs a copy of its "Subpoena to Testify Before Grand Jury," dated July 26, 1996, and addressed to Stewart Laboratories of Strattenville, Pennsylvania. The subpoena was issued by the Assistant U.S. Attorney, who acted as prosecutor, Ms. Constance Bowden, and upon application of the United States of America, in the person of Frederick W. Thieman. Plaintiffs' obtaining of this subpoena was their first solid indication from the government that a grand jury targeting Robert W. Grine, plaintiff in the civil action, had been convened by the United States in 1995 and/or in 1996.

On March 26, 1998, plaintiff-requesters moved the district court in Pittsburgh pursuant to Rule 6(e) of the Federal Rules of Criminal Procedure for an order directing the United States Attorney to permit the requesters to inspect all materials relating to authorization of the surveillance and surveillance of the Plaintiffs, and all transcripts of testimony proffered by EPA agents and agents of the Commonwealth

of Pennsylvania Dept. of Environmental Protection in the course of the grand jury's investigation. Requesters demanded disclosure of any and all material used by the USEPA and the PA DEP to breach the attorney-client privilege in the pending civil proceeding in which these agencies were defendants. Plaintiff-requesters stated their need to inspect the testimony of the government agents who falsely accused them of criminal activity, and stated their right to impeach the testimony of specific government witnesses in the pending civil procedure. Petitioners also requested a list of all witnesses who supplied testimony against Grine to the grand jury. Petitioners also asked specifically for transcripts of the testimony of the EPA field agent (Vincent Zenone) in charge of investigating the nature and extent of the illegal dumping of acutely hazardous substances on the Coombs and Grine properties. The clerks at the district court in Pittsburgh lost the initial pleading filed by petitioners for three weeks; the petition was refiled in their court on April 15, 1998. The district court judge in Pittsburgh who was assigned this action then issued an order on April 23, 1998, directing that the United States file its response to petitioners' motion by May 12, 1998. The United States did not file its response until May 19, 1998; in that pleading, Attorney Bowden requested leave to late-file her response. Judge Cindrich did not write an order granting the government motion until he wrote the end-of-case order of July 28, 2000. On June 15, 1998, the disclosure motion was reassigned to Judge Sean J. McLaughlin per oral direction of Judge Cindrich. Petitioners motioned for retention of their request for disclosure of grand jury materials by the court under whose auspices the grand jury was empanelled, on June 17, 1998.

On June 28, 1998, petitioners moved to strike the government response to petitioners' request for disclosure on the grounds that the government did not file its response in a timely fashion and no order permitting the government to late-file its response had been written by Judge Cindrich or by Judge McLaughlin. The government made no

response to this motion. On July 6, 1998, the Petitioners filed a reply to the late-filed government response to their request for disclosure, reiterating their right to disclosure of transcripts in which government witnesses perjured themselves, their right to disclosure in order to impeach specific government witnesses in a pending civil proceeding, their right to wholesale disclosure of the transcripts because the United States did not conduct a bona fide criminal investigation of target plaintiffs, but instead used a specious investigation as a pretext for a civil evidence-gathering mission to benefit the United States in the pending civil action, and to breach the Petitioners' communications with their counsel. On July 7, 1998, Judge Cindrich reassigned the case to Judge Sean J. McLaughlin for all further proceedings.

On July 16, 1998, petitioners moved to vacate the transfer order of July 7, 1998 reassigning their cause to a district court judge who neither supervised nor convened the grand jury in question. The clerks in the Pittsburgh court signed for this pleading on July 16, 1999, as verified by a UPS response to delivery tracking manifest information. This pleading was also lost by the clerks, who represented to counsel that it was never filed in Pittsburgh. The motion was refiled by Petitioners on July 23, 1999. Petitioners challenged the transfer order on grounds that venue was improper because to the best of their knowledge Judge Cindrich was not the judge assigned to supervise and control the grand jury in question as convened by in the Western District of Pennsylvania in 1995 and/or 1996; he was merely the judge who was on duty to receive pleadings filed at miscellaneous numbers on the date when their pleading was filed. Petitioners argued that they had never been provided access to the judge who in person actually supervised the grand jury convened in Pittsburgh in 1995 and/or 1996.

Judge McLaughlin, on February 18, 2000 transferred the case back to Judge Cindrich in Pittsburgh. At this point the transfer order was moot, but not the request for access to the judge who actually supervised the grand jury, if Judge

Cindrich was in fact not that judicial officer. Petitioners' counsel, when searching for the location of her own pleadings after they were handled by the clerks, discovered that the federal pleadings were not in the document file maintained by the clerks in Pittsburgh. Plaintiffs' counsel was informed by the clerks that these pleadings were "vaulted" and "sealed" and could not be viewed by her. Counsel conveyed her objections to this illegal procedure to Judge Cindrich's clerk, who represented that he would look into the situation. The federal pleadings were not returned to the file. Petitioners' Motion for Oral Argument was filed on July 17, 2000, requesting petitioners be heard on the subject that the federal pleadings were sealed by the clerks without benefit of any court order. Petitioners also objected to the fact that there had been no clear answer provided by the district court judge as to whether he was or wasn't the judge who actually supervised the grand jury in question. Judge Cindrich's memorandum order was entered on July 28, 2000; it denied the petitioners' disclosure motion for discovery and inspection, and denied all other pending motions, with the exception of the government motion to file its response out of time, which was granted nearly two years after the government response was late-filed in 1998. Petitioners' Notice of Appeal was filed on August 28, 2000.

Petitioners in a Rule 27 Motion addressed to the Court of Appeals then objected to any sealing or impoundment of the pleadings on the grounds that no district court order was ever entered which officially placed the federal pleadings under seal at the district court level; no response was ever addressed to the Court of Appeals by the United States on this subject. Petitioners' Motion was granted by the Court of Appeals on October 26, 2000. On November 3, 2000, Petitioners' counsel attempted to inspect all federal pleadings in the file and was denied access to these materials by district court clerks.

After notifying the Chief Judge's clerk of this situation, the deputy clerk communicated with Judge Cindrich's office.

Judge Cindrich's clerk put the federal pleadings back in the file on November 8, 2000, and at that point made them available for inspection by Petitioners' counsel.

REASONS FOR GRANTING THE WRIT

I. The decision of the Third Circuit Court of Appeals conflicts with this Court's precedents and with settled law in the Third Circuit.

A. In Douglas Oil Co. v. Petrol Stops Northwest, 441 U.S. 211 (1979), the United States Supreme Court held that in any case where disclosure of grand jury materials is sought, the existence or absence of any public interest in secrecy must be assessed by the court in actual control of the grand jury.

In Douglas, the Court discussed at length the policies underlying Rule 6(e), which dictate that the grand jury's supervisory court must delineate the need for continuing grand jury secrecy; i.e., the supervisory court must make a written evaluation of the need for continued secrecy based on existing factors; a civil court can only consider the request for disclosure in light of the supervisory court's evaluation of the need for continued secrecy based on its assessment of the public's current interest in secrecy. Judge Cindrich did not swear in and charge the relevant grand jury; he was not the supervisory judge in control of the grand jury. No judicial officer has ever made written evaluation of existing factors which identify the public's interest in continued secrecy and suppression of sworn testimony. Judge Cindrich in his opinion never attempted to say what conceivable interest the public could retain in the court's suppression of the testimony of sworn witnesses after the grand jury had concluded its deliberations, and had failed to indict.

The district court never considered any of the factors which must exist in the real world and not merely as abstract concepts to create a need for continued secrecy in the public interest; these factors have been characterized in great detail by the U.S. Supreme Court in Douglas Oil:

> "In United States v. Procter & Gamble Co., 356 U.S. 677, 681-682, n.6, 2 L.Ed.2d 1077, 78 S. Ct. 983 (1958), we said that the reasons for grand jury secrecy had been summarized in United States v. Rose, 215 F.2d 617, 628-29 (CA 3, 1954): '(1) to prevent the escape of those whose indictment may be contemplated; (2) to insure the utmost freedom to the grand jury in its deliberations, and to prevent persons subject to indictment or their friends from importuning the grand jurors ; (3) to prevent subornation of perjury or tampering with the witness who may testify before the grand jury ...; (4) to encourage free and untrammeled disclosures by persons who have information with respect to the commission of crimes; (5) to protect the innocent accused ... from disclosure of the fact that he has been under investigation ...'"
>
> Douglas Oil, at 165.

The district court judge never looked at the application of any of these specific factors; he never made an in camera examination of the transcript; he never gave the petitioners any hearing in which live argument was involved; he did nothing more than make a casual reference in passing to a presumptive public interest in continued secrecy and suppression of testimony. Not one of the listed factors has any application to the instant request for disclosure. Number 1, 2, and 3 are no longer reasons for secrecy after no indictment is returned; No. 5 is not here involved. The jurors refused to indict; only the prosecutor ever importuned the grand jurors; secrecy has not prevents but instead has encouraged witnesses to extensively perjure themselves; no true or accurate disclosure with respect to a vicious environmental crime has yet been effected. The victim never wanted to hide the fact that he was the target of

an unwarranted accusation made by the government. Furthermore, none of the reasons traditionally advanced to justify nondisclosure of grand jury minutes are significant when the grand jury has completed its investigation. See Dennis v. U.S., 86 S. Ct. 1840 (1966). Any public interest in grand jury secrecy is reduced because the grand jury has ended its activities. The court's duty in a case of this kind is to weigh carefully the competing interests in light of the relevant circumstances. The district court never correctly characterized or considered "competing" interests, because it never stated what existing factors created a valid public interest in continued secrecy. The Court in Douglas made it clear that as the considerations justifying secrecy become less relevant, a party asserting a need for grand jury transcripts will have a lesser burden in showing justification: "[t]he standard enunciated in Procter & Gamble requires the court to examine the extent of the need for continuing grand jury secrecy ... to assess whether a particularized need for disclosure outweighs the public interest in continued secrecy." Douglas, at 168. (Emphasis supplied.)

There is no attempt in the district court or in the panel opinion to state for the record why the public should be interested in or served by suppression of sworn witnesses' testimony.

The district court ignored the prevailing standard of review and never applied the Douglas test to the record in this case. The Third Circuit Court of Appeals has erred in summarily affirming the lower court order in view of the district court's abandon of existing Supreme Court precedent on the subject of secrecy.

B. The United States Supreme Court in Douglas concluded that a petitioner had met his burden in making a showing of particularized need for release of transcripts where such a litigant sought to use a grand jury transcript to impeach a witness, to refresh witnesses' recollections, or to test witness credibility. Douglas, at 222, n. 12.

Petitioners stated in their Motion for Discovery and Inspection of Grand Jury Materials that they specifically needed the transcripts to impeach, among others, the testimony of EPA Agent Vincent Zenone, who was the field officer in charge of the environmental investigation of the Coombs and Grine properties. Zenone had testified in his deposition of January 14, 1998, that he had never implicated Robert Grine as the party responsible for an environmental offense.

Petitioners accurately stated in their motion that they had a constitutional right to introduce prior inconsistent statements at trial from this witness, and any other whose testimony would be impeached in a pending proceeding.

In U.S. v. McDowell, 888 F.2d 285 (3rd Cir. 1989), the Third Circuit Court of Appeals held that the government showed a particularized need for disclosure where it stated its belief that release of transcripts would prove that a defendant's son committed perjury in a sworn statement before a grand jury. In McDowell, the government stated in its petition that it would prove in the future through inspection of the transcripts that a testifying witness had committed perjury. This was held by the appellate court to be a sufficient demonstration of the litigant's need for disclosure.

The district court recognized in its opinion that use of a grand jury transcript to impeach a witness is "a valid use of the transcript." Opinion, at 3; App. A., at A-3.

The district court erred in stating that petitioners did not identify witnesses or the subject of their expected testimony. Petitioners most definitely did so in their motion for disclosure - they could not be expected to identify all witnesses or the subject and extent of their testimony before the Petitioners were in possession of a

witness list or transcripts. This is a burden no other court has logically attempted to impose on movants for disclosure. The Court of Appeals erred in summarily affirming the district court in this regard, and in so doing ignored the holdings in Douglas and the clear language on this subject that is found in McDowell.

II. The decision of the Court of Appeals should be reviewed because it erodes public confidence in the integrity of the judicial process.

A. Petitioners have a statutory right to be heard by the district court judge who actually supervised the grand jury in question.

In Douglas, this Court discussed at length the appropriate forum for disclosure requests and held that the policies underlying rule 6(e) dictated that the grand jury's supervisory court participate in reviewing motions for disclosure, because that court is in the best position to determine any continuing need for secrecy.

Only the supervising judge possesses first-hand knowledge of the grand jury's activities. See Douglas.

Plaintiffs have a constitutional right to know who their judge is. Federal statutory authority in the form of Rule 6(e), Title 18, has conferred and dictated their right to be heard by the judge who actually supervised the grand jury. The name of the judge who controlled the grand jury must be made known to Petitioners if they are to be afforded due process of law in a federal forum.

The district court judge in his opinion refused to answer the Petitioners' inquiries as to his connection with and role in supervision of the grand jury in question. He also refused to identify any other judge in the Western District of Pennsylvania as a judicial officer who presided

over activities of the grand jury used by the government. Petitioners in their motion to vacate the district court's transfer order and in their motion for oral argument asked for clarification on this point. None was forthcoming.

There has been no explanation whatsoever from Judge Cindrich as to why he has substituted himself for the original judge who swore in and charged the grand jury. Both Judge Cindrich and the appellate court have refused to address this valid and fundamental question as posed by Petitioners: "Who was our judge?" This is improper and disturbing. Petitioners stand by their argument that judges in our system are robed and not cloaked. As Petitioners have said before, going nameless is a privilege not accorded to the judges in a federal and/or democratic system. The Court of Appeals erred in summarily affirming the lower court when neither the court nor Judge Cindrich were willing to identify the judge in control of the grand jury.

B. Petitioners made the requisite showing that the ends of justice require disclosure.

The self-interest of lying witnesses is not one of the factors alluded to by the U.S. Supreme Court in its announcement of the policy concerns justifying secrecy. Petitioners have an absolute right (which can only be described as constitutional in its proportions) to know which government witnesses perjured themselves in testimony before the grand jury, and in testimony used by the government to authorize surveillance of the Petitioners. Petitioners have a right to know if the testimony of lying witnesses was used to authorize their surveillance by the government, and ultimately used to breach the attorney-client privilege (through interceptions of attorney-client communications in Petitioners' civil case).

Due process requires that whenever the prosecutor learns of any perjury committed before the grand

jury, she has a duty to inform the court, opposing counsel and the grand jurors themselves.

Both the prosecutor and the supervising judge have a duty to order wholesale disclosure of transcripts containing perjured testimony to Petitioners and to the public. The United States Supreme Court made this clear in U.S. v. Socony-Vacuum Oil Co., 60 S. Ct. 811 (1940), in Procter & Gamble, in Douglas, and in U.S. v. Mandurjano, 98 S. Ct. 1768 (1976).

There is no public interest in protecting the testimony of perjurers. The government (in the name of fair play) should have indicted its own witnesses; failing that, the government at least was obligated to correct false statements its own witnesses placed in the record.

Petitioners had a right to disclosure of the requested information in the interests of justice, in order to prove that a bona fide investigation of an environmental crime never took place and was instead prevented by the government through its convening of a grand jury which falsely accused innocent victims and complainants of criminal misconduct.

Petitioners have an absolute right to view all materials which demonstrate that the grand jury process was abused by the prosecutor. The district court neglected its practical responsibility for sanctioning such an abuse of grand jury powers. It was an impossibility for Judge Cindrich to apply the prevailing standard of review regarding disclosure because he was not the judge who supervised, swore in or charged the grand jury.

The district court based its decision upon the unsupported assertions of the government counsel in late-filed pleadings, failed to provide the petitioner with a hearing, and failed to conduct any review of the transcripts which were sought. The Court of Appeals did nothing to

correct this miscarriage of justice; instead it endorsed the numerous errors of law and fact made by the district judge.

It is basic that a policy of secrecy is meant to prevent harassment of witnesses who testify truthfully; it is not meant to save them from the consequences of lying under oath.

The prosecutor has a duty to disclose any witness's commission of a perjury, either in grand jury or trial court proceedings. Mesarosh v. U.S., 77 S. Ct. 1 (1956); U.S. v. Wong, 97 S. Ct. 1823 (1977).

Deliberate deception of the grand jurors through presentation of evidence known beyond any doubt by the prosecutor to be perjured is inconsistent with the rudimentary demands of justice.

The United States, when it convened the grand jury in question, knew the identity of the career criminals responsible for transportation of acutely hazardous materials to an unpermitted residential site; the identity of the victims in this affair was also known to the United States, and it deliberately made an attempt to silence those witnesses through its abuse of grand jury powers. The United States has always been privy to the identity of the judge who actually charged the grand jury.

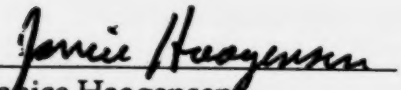
It is not the function of a grand jury to lynch an innocent or to protect career criminals who are good at their job. The Court of Appeals' decision should be reviewed because that decision, like the opinion written by the district court judge, has endorsed mindless, unconstitutional and disturbing forms of secrecy, thus eroding public confidence in the integrity of both the judicial process, and the judiciary.

CONCLUSION

The Petition for a Writ of Certiorari should be granted.

Dated: September 17, 2001.

Respectfully submitted,



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APPENDIX

APPENDIX A	MEMORANDUM OPINION AND ORDER OF THE DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA, OF JULY 28, 2000
APPENDIX B	OPINION AND JUDGEMENT OF THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT AFFIRMING THE DISTRICT COURT ORDER OF JULY 28, 2000
APPENDIX C	DECISION OF THE UNITED STATES COURT OF APEALS DENYING THE PETITION FOR REHEARING OF MAY 22, 2001

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE GRAND JURY	)	Misc. No. 98-134
	)	**UNDER SEAL**

MEMORANDUM ORDER

This miscellaneous action arises out of a request for information and materials from a grand jury. It has unfortunately been transferred repeatedly between the court's divisions in Erie and Pittsburgh. It would seem better suited for decision in Erie, where a civil action was filed in which the movants are plaintiffs. Grine v. Coombs, Civil Action No. 95-342 E. To avoid any additional delay in providing the movants with a decision, however, we will resolve their request.

The movants claim they have been wrongly accused by the government of complicity in a "vicious environmental crime," namely the dumping of toxic substances on property adjoining theirs. They seek an order directing the disclosure of all grand jury materials relating to authorization of surveillance of their property; all information obtained by surveillance of their property; and a list of witnesses who testified or supplied documents to the grand jury. The movants claim they need this information to prepare their claim against government officials in their civil case, to prove a cover-up, and to impeach or refresh the recollection of witnesses.

The government responds that some of the information movants request does not exist. As for any remaining information, the government contends that movants have not demonstrated a particularized need for disclosure.

The Supreme Court in Douglas Oil Co. v. Petrol Stops Northwest, 441 U.S. 211, 222 (1979) held that a three-part test should be applied when determining whether to disclose grand jury transcripts; the petitioned court must find all three factors present. First, the party seeking the transcripts must show that the materials are needed to avoid possible injustice in another judicial proceeding. Second, the party seeking transcripts must show that the need for disclosure is greater than the need for secrecy. Third, the party seeking transcripts must show that the request is structured to cover only the materials needed. The Court has held that as the time since the grand jury investigation passes, the general need for secrecy lessens and the test is relaxed. Id. at 223.

While it is difficult to discern precisely the boundaries of the information movants are seeking, the government asserts that one category - grand jury authorization of surveillance - does not exist. Despite their determined arguments to the contrary, movants have not contradicted this position with any reliable response.

As to whether movants have satisfied any of the other elements of the applicable test, they have not shown a particularized need for any other grand jury information. They are the plaintiffs in a civil action; they have not shown that the government has accused them of anything in any forum. Certainly it may be helpful as a general matter to review grand jury transcripts for materials to corroborate one's own lawsuit. But given the strong presumption of secrecy, movants have not shown a particular need which serves in the interest in preventing injustice. They claim in their papers to have been wrongly accused, but they have not shown any official or unofficial consequences of such accusation, if it indeed exists.

In addition, movants have not demonstrated a weighty need for disclosure. They claim that they require grand jury information, assuming it exists, to aid or challenge witness testimony in their lawsuit. Courts have held that use of a grand jury transcript to refresh the memory of witnesses or to impeach witnesses is a valid use of the transcripts. See e.g., Illinois v. Sarbaugh, 552 F.2d 768 (7th Cir. 1977); In re Catfish Antitrust Litigation, 164 F.R.D. 191 (N.D. Miss. 1995). But movants have not identified the witnesses, or the subject of their expected testimony, for whom grand jury information will be relevant. Movants likewise claim that disclosure is necessary to prevent interference with their attorney-client privilege, but make no logical connection between the two.

Finally, as may be apparent from the conclusions above, movants have not tailored their request for specific information. A list of all witnesses and everything they said before the grand jury does not suggest a structured request. Movants state in their response brief that their request is indeed limited - they seek only all perjured testimony. Doc. No. 8 at 4. This does not aid them in meeting the requirements of Douglas Oil, however.

In sum, movants' request is premised on fervent claims of wrongdoing by government agents. We find these claims confined to the realm of speculation and conjecture. Such arguments do not overcome the presumption of grand jury secrecy in any aspect.

In accordance with the foregoing, the Motion for Discovery and Inspection of Grand Jury Materials, Doc. No. 1, is DENIED. The United States Motion to File Response Out of Time, Doc. No. 3, is GRANTED. All other pending motions are DENIED.

SO ORDERED this 28 day of July, 2000.

ROBERT J. CINDRICH
United States District Judge

cc:

Janice Haagensen
349 New Road
Enon Valley, PA 16120

Constance Bowden, AUSA

UNREPORTED-NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No: 00-2571

IN RE: GRAND JURY

Robert W. Grine;
JoAnne D. Grine;
Estate of Margaret Grine,
Appellants

On Appeal from The United States District Court
For the Western District of Pennsylvania
D.C. Grand Jury No. 98-gj-00134
District Judge: Hon. Robert J. Cindrich

Submitted Pursuant to Third Circuit LAR 34.1(a)
March 5, 2001
Before: Alito, McKee, Circuit Judges and Kravitch, Circuit Judge*

(Filed: April 11, 2001)

JUDGEMENT

This cause came to be considered on the record from the United States District Court for the Western District of Pennsylvania and was submitted pursuant to Third Circuit LAR 34.1(a) on March 5, 2001.

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*The Honorable Phyllis A. Kravitch, United States Court of Appeals for the Eleventh Circuit, sitting by designation.

Upon consideration of arguments made by counsel, it is hereby ORDERED that the Memorandum Order of the district court dated July 28, 2000, is hereby affirmed.

ATTEST:

/s/ Marcia M. Waldron
CLERK

DATED: April 11, 2001

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No: 00-2571

IN RE: GRAND JURY

Robert W. Grine;
JoAnne D. Grine';
Estate of Margaret Grine,
Appellants

SUR PETITION FOR REHEARING

BEFORE: BECKER, Chief Judge
SLOVITER, MANSMANN, SCIRICA, NYGAARD,
ALITO, ROTH, McKEE, RENDELL, BARRY, AMBRO and
FUENTES Circuit Judges,
And KRAVITCH, Senior Circuit Judge*

The petition for rehearing field by the Appellants in the above-entitled case, having been submitted to the judges who participated in the decision of this court and to all other available circuit judges in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the circuit judges in regular active service not having voted for rehearing by this court en banc, the petition for rehearing is here by **DENIED**.

IT IS SO ORDERED.

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*The Honorable Phyllis A. Kravitch, United States Court of Appeals for the Eleventh Circuit, sat by designation, and her vote is limited to panel rehearing only.

By the Court

/s/Hon. Theodore A. McKee
Circuit Judge

Dated: June 19, 2001
/s/ lp/cc JSH, PJB

Received and Filed
6/18/01
Marcia M. Waldron,
Clerk